

January 10, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Development and Environmental Services File No. **L07TY403**
Proposed Ordinance No. **2007-0623**

TOWN OF SKYKOMISH
Special Use Permit Application

Location: Adjacent to 6150 Old Cascade Highway (aka Northeast Old Stevens
Pass Highway)

Applicant: **Town of Skykomish**
Attn: Clint Stanovsky
119 Fourth Street North
P.O. Box 308
Skykomish, Washington 98228
Telephone: (360) 677-2388

King County: Department of Development and Environmental Services (DDES)
represented by **Mark Mitchell**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7119
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve with conditions
Department's Final Recommendation:	Approve with conditions
Examiner's Recommendation:	Approve with conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	December 20, 2007
Hearing Closed:	December 20, 2007

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Proponent:	Town of Skykomish c/o Clint Stanovsky 119 Fourth Street P.O. Box 308 Skykomish, Washington 98228
Location:	The site is adjacent to 6150 Old Cascade Hwy, just east of the town limits of Skykomish
Section/Township/Range:	SW 25-26-11
Existing Zone:	RA-5 / RA-10
Acreage:	Total collection area: approximately 118 acres Wastewater treatment facility: approximately one acre Community drainfield: approximately 7.9 acres
Proposed Use:	Wastewater treatment facility and appurtenances
Complete Application Date:	October 3, 2007

2. Except as may be modified herein, the facts set forth in the DDES department report to the Examiner and the DDES testimony are found to be correct and are incorporated herein by reference.
3. The Town of Skykomish proposes development and construction of the Skykomish Community Wastewater Treatment System, consisting of collection facilities throughout the Town and areas within the Urban Growth Boundary (sedimentation tanks, collector and main lines, and lift stations) and a pressure main to a wastewater treatment facility to be installed on property approximately ½ mile east of the Town limits. The treated discharge (secondary effluent) from the wastewater treatment facility will be conveyed by pressure main southward to an approximately 7.9 acre subsurface community drainfield disposal area in the southern part of the Skykomish Airport site.¹
4. The treatment facility aspects of the proposed development in the unincorporated area, which require a Special Use Permit (SUP) under county code (KCC 21A.08.100.A), are composed of the following:
 - A. The wastewater treatment plant site is located approximately 200 feet north of the Old Cascade Highway running east of town, between and behind WSDOT and King County road maintenance shops. The northern boundary of the property abuts the Burlington Northern Santa Fe (BNSF) railroad, beyond which to the north is the South Fork Skykomish River. The Airport lies across the Old Cascade Highway, to the south.

¹ Owned by the State of Washington and operated by the Washington State Department of Transportation (WSDOT) Aviation Division.

- B. The wastewater treatment plant will consist of underground tanks, surface recirculating ponds, and related piping and mechanical equipment, and is designed to reduce nuisance bird attraction thus minimizing adverse avian-related effects on aircraft operations at the nearby airfield. All of the treatment facility mechanical equipment will be located underground, except for an auxiliary generator, mitigating any noise impacts onto adjacent properties. A 200 foot development setback will be maintained from the South Fork Skykomish River, avoiding any shoreline impacts. A tree buffer will be maintained adjacent to the property's boundary with the active areas of the adjacent WSDOT maintenance shop.
 - C. Secondary treatment effluent from the treatment facility will be pumped via a force main to an approximately 7.9 acre community drainfield area located between a Puget Sound Energy (PSE) right-of-way and the airfield clear area south of the airstrip. A significant setback dimension will be maintained between the drainfield site and distant single-family residences west of the airfield (in part due to relocation of the proposed drainfield area eastward from a previous design, for other reasons). The drainfield will also be placed a significant distance (approximately 1,500 feet) east of the town's community water well site. The drainfield will have extremely minor visible installations aboveground. It will be served for maintenance purposes by an access road developed by improving an existing route from the Old Cascade Highway around the east end of the airfield.
 - D. Approximately two average daily vehicle trips (ADT) will be generated by the wastewater treatment facility development, which is a *de minimis* (extremely minor) impact not subject to the traffic mitigation requirements of county code.
- 5. The wastewater treatment improvements proposed by the Town are being developed in concert with and as an integral part of a significant environmental cleanup effort begun in 2006 to abate underground soil and groundwater contamination resulting from the longstanding operation of the BNSF railyard and millyards in town, as well as from failing (and/or non-existent) domestic sewage facilities, which has caused leaching of pathogens into the groundwater and river. The contamination comprises an environmental health threat. Operating under a consent order with the State Department of Ecology (DOE), BNSF is a principal participant in the abatement project, which is also being supported by DOE funding and program assistance and the Town's wastewater treatment program.
 - 6. The environmental cleanup and wastewater treatment improvements are necessary for the town's community and economic viability.
 - 7. WSDOT is supportive of the proposed development, as is the state DOE.
 - 8. The preponderance of the evidence in the record demonstrates the following regarding the proposed development's potential adverse impacts:
 - A. Noise impacts will be *de minimis*, consisting of the occasional use of the auxiliary generator at the wastewater treatment facility for emergencies and maintenance testing.

- B. Odor production has persuasively been predicted to be non-existent, except possibly in a barely noticeable way in the very immediate proximity of the treatment plant facilities (contained well within the site). In any case, in the great unlikelihood that any odor nuisance occurs, it can be easily remedied.
 - C. Traffic impacts will be *de minimis*.
 - D. Groundwater quality impacts posed by the location of the proposed drainfield area south of the airfield and well east of the town wellsite are shown to be *de minimis* at most. The evidence and testimony in the record are persuasive that any groundwater plume which may eventually result from the drainfield infiltration, regardless of its conformity with acceptable water quality standards, would be directed down-gradient (generally northward) toward the river, rather than westerly toward the town wellsite.
 - E. Visual impacts of the wastewater treatment facility and the drainfield development will be hardly discernible, and are found to be *de minimis*.
 - F. The recommended conditions of approval, agreed to by the Town, will serve to mitigate any potential adverse environmental effects posed by construction and operation of the facilities.
9. The proposed development conforms to the special use permit approval criteria set forth in KCC 21A.44.050 in that:
- A. Its characteristics will not be unreasonably incompatible with the types of uses permitted in the surrounding areas.
 - B. It will not materially endanger the health, safety and welfare of the community. To the contrary, the proposal will substantially support and improve the health, safety and welfare of the community.
 - C. The development's pedestrian and vehicular traffic will be extremely *de minimis* and will therefore not be hazardous or conflict with existing and anticipated traffic in the neighborhood.
 - D. It will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding area. It will indeed improve public services to the area.
 - E. The physical aspects and other impacts of the development will not hinder or discourage the appropriate development or use of neighboring properties.
 - F. The development is not shown to be in any conflict with the policies of the Comprehensive Plan or the basic purposes of the county zoning code.

CONCLUSIONS:

1. Subject to the conditions of approval set forth below, the proposed development conforms to the applicable regulations and policies of the county.
2. The proposed development is supportive of the public health, safety and welfare, and indeed the preponderance of the evidence shows that it is necessary for maintenance of public health and safety and the public interest.
3. As the proposal conforms to applicable regulations and policies, and is necessary for and supports the public health and safety and the public interest, it merits approval.

RECOMMENDATION:

APPROVE the requested Special Use Permit (SUP), subject to the following conditions:

1. Construction shall occur in conformance to the project plans and information received by King County on September 20, 2007 (Exhibit D-6).
2. A Forest Practices Permit (FP) shall be obtained from King County prior to any work. Any conditions of the FP shall be considered conditions of this SUP approval.
3. If required, a U.S. Army Corps of Engineers Permit "Corps Permit" shall be obtained from the Corps prior to any work. Any conditions of the Corps Permit shall be considered conditions of this SUP permit.
4. Erosion controls and Best Management Practices (BMP's) shall be implemented and maintained to prevent uncontrolled discharge of petroleum products, soil and other deleterious materials into adjacent surface waters.
5. If required, and prior to any work, a King County Grading Permit shall be obtained from DDES. Any conditions of the Grading Permit shall be considered conditions of this SUP.
6. Issuance of this Special Use Permit does not grant the right to trespass upon private property. Easements for construction that occurs on private property or within or adjacent to right-of-way areas shall be secured prior to work. (Right-of-Way Use Permit/Franchise Agreement)
7. The applicant shall control erosion of disturbed areas by implementing BMP's. The applicant's erosion and sedimentation control plan shall include the following: installation of silt dams or catchments between work areas and all wetland/creek sensitive areas; the use of mulch and hydroseeding; planting of disturbed areas with native vegetation; and any measures determined to be appropriate through the grading permit/building permit processes. Appropriateness of fencing and location shall be approved and verified by a King County representative prior to commencement of any clearing, grading or construction activities.

8. Wetlands and ditches shall be avoided when locating temporary access roads and staging areas. No work in wetlands is permitted unless specifically approved by King County.
9. Refueling activities shall be conducted within a designated refueling area at a distance of not less than 200 feet away from any designated wetland areas. Additionally, drip pans shall be fitted with absorbent pads and placed under all equipment being fueled. All equipment, if kept onsite overnight, shall be parked at least 100 feet away from the river and any designated wetland areas.
10. Daily inspection by an erosion control specialist shall be provided at the applicant's expense to ensure the adequacy and maintenance needs of all erosion and sedimentation control measures. Copies of the inspection reports shall be submitted to King County DDES. If the erosion control specialist determines there is an erosion or sedimentation problem, King County DDES shall be notified immediately and immediate corrective measures shall be implemented per the applicant's recommendations(s) and DDES inspector's approval.
11. All manmade debris from the project within the construction zone shall be removed and disposed of at a location licensed for such disposal.
12. A copy of the approved SUP and Building Permit plans and any subsequent revisions shall be kept onsite at all times during construction.
13. Prior to any work, a King County Building Permit shall be obtained (B07C0139). Conditions of said building permit shall be considered conditions of this SUP.
14. Prior to the issuance of the required building permit, a Lot Line Adjustment shall be executed between the Town of Skykomish and the Washington State Department of Transportation (WSDOT), the result of which would allow for the placement of the wastewater treatment plant facility structures to be located entirely within the property ownership of the Town of Skykomish. Such placement shall take into account required setbacks from the resulting property lines such that a zoning variance (KCC 21A.44.030) would not be required.

RECOMMENDED January 10, 2008.

Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the Metropolitan King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before January 24, 2008***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the Council ***on or before January 31, 2008***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE DECEMBER 20, 2007, PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L07TY403.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Mark Mitchell, representing the Department; Clint Stanovsky, representing the Applicant; Harry Sellers; Paul Wolf; Ken Elliot; Tim Nord; and Larry Johnson.

The following Exhibits were offered and entered into the record:

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| Exhibit No. 1 | Petitioner's Land Use Application, received September 20, 2007 |
| Exhibit No. 2 | Letter from the Town of Skykomish to Washington State Department of Transportation obtaining concurrence with Special Use Permit (SUP) application, dated September 17, 2007 |
| Exhibit No. 3 | SUP Application, received September 20, 2007 |

- Exhibit No. 4 Town of Skykomish Waste Water Treatment Facility (WWTF) criteria for SUP approval, received September 20, 2007
- Exhibit No. 5 Determination of Nonsignificance for L07TY403 with attached Environmental checklist, both dated February 23, 2007
- Exhibit No. 6 Project Plan for L07TY403
- Exhibit No. 7 Notice of Application mailed to reviewing agencies and nearby property owners October 19, 2007
- Exhibit No. 8 Affidavit of Posting for L07TY403 SUP, posted October 16, 2007
- Exhibit No. 9 Affidavit of Publication of L07TY403 SUP in the Seattle Times on October 17, 2007
- Exhibit No. 10 Assessor's Map, Section 25-26-11 (property outlined in red)
- Exhibit No. 11 Department of Development and Environmental Services (DDES) Preliminary Report to the Hearing Examiner, dated December 20, 2007 for the Public Hearing of same date
- Exhibit No. 12 Letter from Public Health Seattle & King County to the Mayor of Skykomish regarding status of Skykomish's Onsite Wastewater systems, dated March 9, 2007
- Exhibit No. 13 Letter from Washington State Department of Ecology to DDES requesting priority processing of Building Permit and SUP applications, dated August 27, 2007
- Exhibit No. 14 WWTF General Sewer/Facilities Plan: Hydrogeological Evaluation, dated November 17, 2006
- Exhibit No. 15 Wetland, Stream, and Ditch Delineation Report, dated September 20, 2007
- Exhibit No. 16 WWTF Geotechnical Report, dated August 9, 2007
- Exhibit No. 17 WWTF Storm Drainage Technical Information Report, dated September 2007
- Exhibit No. 18 Vicinity and Location Maps of Town of Skykomish
- Exhibit No. 19 Proposed Site Plan
- Exhibit No. 20 Aerial View of Site Areas
- Exhibit No. 21 Existing Project Site Parcels
- Exhibit No. 22 Project Site Plan Boundaries
- Exhibit No. 23 Photograph of WWTF Site Entrance
- Exhibit No. 24 WWTF Plan
- Exhibit No. 25 Recirculation Gravel Filter and Infiltration Units
- Exhibit No. 26 Photograph of Runway Looking West from Drain Field Units
- Exhibit No. 27 Photograph of Site View Looking North from Maloney Outlook
- Exhibit No. 28 WWTF Plan vs. Edison, Washington Facility